

³ The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a recurrence of total disability for the period July 27 through November 3, 2017, causally related to her accepted bilateral carpal tunnel syndrome condition.

FACTUAL HISTORY

On November 17, 2016 appellant, then a 40-year-old maintenance operation support clerk, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome as a result of her repetitive employment duties. She noted that she had also worked as a labor custodian. Appellant related that both jobs required constant carrying, lifting, gripping, pushing, and pulling for eight hours a day, five to six days a weeks. She indicated that she first became aware of her claimed condition on May 12, 2014 and first realized it was related to her federal employment on October 4, 2016. Appellant did not stop work.

By decision dated March 13, 2017, OWCP accepted appellant's claim for bilateral carpal tunnel syndrome.

Appellant received medical treatment from Dr. Ankur Chhadia, a Board-certified orthopedic surgeon. In reports dated March 24 and June 20, 2017, Dr. Chhadia related appellant's complaints of worsening pain and numbness and tingling in her fingers. He noted that appellant performed repetitive work as a labor custodian and maintenance clerk, including sweeping, mopping, pulling trash, lifting, and pulling. Physical examination of appellant's bilateral wrists revealed no tenderness upon palpation, normal alignment, and no effusion. Tinel's, Phalen's, and carpal tunnel compression tests were positive on both sides. Dr. Chhadia related that an electromyography (EMG) and nerve conduction velocity (NCV) study report showed moderate carpal tunnel syndrome. He diagnosed bilateral carpal tunnel syndrome and recommended that appellant work light duty with restrictions of no driving and no lifting more than five pounds.

In a July 24, 2017 work duty status form and a duty status report (Form CA-17), Dr. Chhadia marked a box indicating that appellant was "medically unable to work due to pain and inability to perform job duties." He noted a date of injury of May 12, 2014 and a diagnosis of bilateral carpal tunnel syndrome.

On August 3, 2017 appellant filed a claim for wage-loss compensation (Form CA-7) for the period July 24 to August 4, 2017. In an accompanying time analysis form, she claimed four hours of leave without pay (LWOP) on July 24, 2017 and indicated the reason for leave was physical therapy. Appellant also claimed four hours of daily LWOP for the period July 27 through 31, 2017. She noted the reason for leave as "unable to work; drs orders." Appellant filed additional Form CA-7 claims for compensation for wage-loss due to continuing total disability until November 13, 2017.⁴

On August 4, 2017 appellant called OWCP and informed them that she had been taken off work by her attending physician due to a worsening of her accepted condition.

⁴ Appellant filed CA-7 forms on August 23 and 25, September 14 and 28, October 27, and November 13, 2017. In accompanying time analysis forms, she indicated that her reason to use leave was "unable to work; drs. orders."

By development letter dated August 7 and September 13, 2017, OWCP advised appellant of the type of evidence needed to establish her wage-loss compensation claim for the period beginning July 24, 2017 and continuing. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received a July 24, 2017 report by Dr. Chhadia. Dr. Chhadia related that appellant complained of increasing and more frequent bilateral wrist pain and weakness in her bilateral hands. Upon physical examination of appellant's bilateral wrists, he observed no tenderness upon palpation. Tinel's, Phalen's, and carpal tunnel compression tests were positive on both sides. Dr. Chhadia diagnosed bilateral carpal tunnel syndrome. Regarding appellant's work status, he noted "off work."

In an August 16, 2017 letter, Dr. Chhadia responded to OWCP's request for additional evidence. He related that he was treating appellant for bilateral carpal tunnel syndrome. Dr. Chhadia indicated that she was working with limited-duty restrictions on July 24, 2017. He explained that appellant had "significant deterioration of her condition," including symptoms radiating up to her forearms and dropping things, dysfunction in gripping, and sensitivity about her wrists and hands. Dr. Chhadia reported: "based on the deterioration of subjective and objective physical exam[ination] findings, I recommend she be medically incapacitated from work for a period of time as part of her overall status and treatment regimen."

Dr. Chhadia continued to treat appellant. In examination reports dated August 25 and September 19, 2017, he discussed her medical treatment for her bilateral carpal tunnel syndrome. Dr. Chhadia provided examination findings and diagnosed bilateral carpal tunnel syndrome. He reiterated that appellant had experienced significant deterioration of her bilateral carpal tunnel syndrome, including symptoms radiating up to her forearms, beginning to drop things, dysfunction in gripping and sensitivity about her wrists and hands, and weakened grip. Dr. Chhadia opined that she was "medically incapacitated from work for a period of time effective [July 24, 2017] including August 5 through September 1, 2017." He completed form reports, which indicated that appellant was "medically unable to work due to pain and inability to perform job duties."

A September 26, 2017 EMG/NCV study report showed evidence of mild-to-moderate left and moderate right median neuropathy in its wrist segment.

In a September 30, 2017 letter, Dr. Chhadia indicated that appellant's current symptoms were numbness, tingling, throbbing, pressure, and pain in her hand and wrist. He reported current examination findings of tenderness to palpation, and positive peripheral neuropathy, compression signs, Tinel's, Phalen's, and carpal compression tests. Dr. Chhadia diagnosed bilateral carpal tunnel syndrome, as confirmed by EMG/NCV study. Regarding appellant's renewed disability from work, he indicated that initially appellant was working full duty and her condition began to "deteriorate subjectively and objectively in terms of her numbness, grip strength, and function." Addressing causal relationship, Dr. Chhadia reported that appellant's bilateral carpal tunnel condition was stable and controlled and began to "become progressively worse and deteriorate in nature. It is clearly related to her occupational diagnosed conditions and not a separate unrelated worsening."

On October 6, 2017 OWCP received appellant's completed questionnaire dated September 28, 2017. Appellant described that, on July 24, 2017, she was given an excessive amount of work that required excessive typing. She indicated that her hands began to cramp and

she could not straighten her fingers. Appellant related that she was in a lot of pain and left work to obtain medical treatment. She explained that she believed her disability was due to her original injury because the injury occurred while she was working and the symptoms were similar.

By decision dated October 18, 2017, OWCP denied appellant's claim for wage-loss compensation due to total disability for the period July 27 2017 and continuing.⁵ It found that the medical evidence of record was insufficient to establish that she was disabled from work due to a material change or worsening of her accepted bilateral carpal tunnel condition.

Following OWCP's decision, appellant filed CA-7 forms on October 27 and November 13, 2017 for wage-loss compensation due to total disability for the period October 13 to November 3, 2017. In the accompanying time analysis forms, she claimed eight hours of daily LWOP from October 14 through 16 and 19, through 23, 2017 and indicated the reason for leave use was "due to doctors restriction." Appellant claimed eight hours of daily LWOP from October 26 through 30, 2017. She related that the reason for using leave was "no work available." Appellant claimed eight hours of daily LWOP on November 2 and 3, 2017 due to "wounded warrior leave/physical therapy."

In an October 25, 2017 examination report, Dr. Chhadia discussed appellant's history of injury and conducted an examination. He diagnosed bilateral carpal tunnel syndrome and indicated that appellant could work light duty. Dr. Chhadia continued to opine that appellant was "medically incapacitated from work for a period of time effective [July 24, 2017] including August 5 through September 1, 2017." He completed a duty status report (Form CA-17), which indicated that appellant could work full-time light duty with restrictions of no driving, no lifting more than five pounds, and no typing for more than one hour every two hours.

OWCP received an October 27, 2017 request or notification of absence by the employing establishment, which noted that there was "no work available" from October 26 to 27, 2017.

On an October 30, 2017 duty status report, Dr. Chhadia checked a box marked "Light Duty." He noted a diagnosis of bilateral carpal tunnel syndrome.

On November 1, 2017 the employing establishment offered appellant a job as a full-time modified maintenance support clerk, effective that date. Appellant accepted the modified job offer on November 3, 2017.

On November 2, 2017 the employing establishment informed OWCP that appellant was scheduled to return to work full time with restrictions on November 12, 2017 in a new position based on the updated restrictions.

The employing establishment called OWCP on November 9, 2017 and confirmed that no work was available for appellant for October 26 and 27, 2017. It further noted that she remained on leave using "wounded warrior" leave until November 9, 2017 when she was to return to work.

In a November 8, 2017 letter, Dr. Chhadia related that his examination reports dated March 1, August 22, and September 30, 2017 provided a detailed description of the original

⁵ The Board notes that OWCP noted an incorrect period of July 27, 2017 through July 4, 2017. The incorrect notation appears to be a typographical error.

mechanism of appellant's occupational exposure and symptoms, current objective findings and diagnostic study results, and a current diagnosis of bilateral carpal tunnel syndrome. Addressing appellant's work stoppage, he noted that she was now off work given the deterioration in her clinical course and condition. Dr. Chhadia reported that she had significant weakness, sensitivity, numbness, tingling, and altered sensation in her hands. He explained: "This spontaneous change is a gradual deterioration of [appellant's] condition in her clinical course such that her probability of requiring surgical carpal tunnel release is increasing and recommended."

On November 28, 2017 appellant requested reconsideration and resubmitted various reports by Dr. Chhadia.

By decision dated March 1, 2018, OWCP denied modification of its October 18, 2017 denial decision. It found that the medical reports submitted did not sufficiently explain how appellant was disabled from work for the period July 27 to November 3, 2017 due to a material change or worsening of her accepted bilateral carpal tunnel condition.

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.⁶ This term also means an inability to work when a light-duty assignment made specifically to accommodate an employee's physical limitations due to the work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force), or when the physical requirements of such an assignment are altered such that they exceed his or her established physical limitations.⁷

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position, or the medical evidence of record establishes that light duty can be performed, the employee has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.⁸

An employee who claims a recurrence of disability resulting from an accepted employment injury has the burden of proof to establish that the disability is causally related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.⁹

⁶ 20 C.F.R. § 10.5(x); see *Theresa L. Andrews*, 55 ECAB 719 (2004).

⁷ *Id.*

⁸ *Albert C. Brown*, 52 ECAB 152 (2000); *Mary A. Howard*, 45 ECAB 646 (1994); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁹ *S.S.*, 59 ECAB 315 (2008); *Ronald A. Eldridge*, 53 ECAB 218 (2001).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a recurrence of total disability for the period July 27 through October 25, 2017, causally related to her accepted bilateral carpal tunnel condition.

The medical evidence relevant to the claimed recurrence of disability includes medical reports by Dr. Chhadia. In a July 24, 2017 examination report, Dr. Chhadia noted physical examination findings of no tenderness upon palpation. Tinel's, Phalen's, and carpal tunnel compression tests were positive on both sides for carpal tunnel. Dr. Chhadia diagnosed bilateral carpal tunnel syndrome. He completed a work-duty status and Form CA-17 and related that appellant was "medically unable to work due to pain and inability to perform job duties." The Board finds, however, that Dr. Chhadia did not provide a fully-rationalized explanation as to why appellant was suddenly unable to perform her light-duty position on July 24, 2017. Specifically, Dr. Chhadia did not provide objective findings to demonstrate how appellant's accepted injuries had worsened to the point of disability, but rather he merely attributed her inability to work to subjective complaints of pain. When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that he or she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability.¹⁰ This report, therefore, failed to establish appellant's inability to work on July 24, 2017.

Dr. Chhadia further related in letters and work status reports dated August 16 to November 8, 2017 that appellant was working limited duty and had a "significant deterioration of her condition, including symptoms radiating up to her forearms, dysfunction in gripping and sensitivity about her wrists and hands, and weakened grip. He opined that appellant was "medically incapacitated from work for a period of time effective [July 24, 2017] including August 5 through September 1, 2017." Although Dr. Chhadia related that appellant's inability to work was a result of "significant deterioration" of appellant's accepted bilateral carpal tunnel condition, he failed to provide any medical explanation, based on medical rationale, as to how her bilateral carpal tunnel condition had materially changed or worsened to the extent that she was unable to work.¹¹ A mere conclusion without the necessary rationale is insufficient to meet a claimant's burden of proof.¹² Without rationale supporting disability, Dr. Chhadia's reports are insufficient to meet appellant's burden of proof.¹³

For each period of disability claimed, an employee has the burden of proof to establish a causal relationship between his or her recurrence of disability and his or her accepted employment injury.¹⁴ Because appellant has not submitted sufficient medical evidence demonstrating that she was unable to work from July 27 to October 25, 2017 due to a spontaneous change or worsening

¹⁰ *P.D.*, Docket No. 14-744 (issued August 6, 2014); *G.T.*, 59 ECAB 447 (2008).

¹¹ *See C.C.*, Docket No. 18-719 (issued November 9, 2018); *S.E.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *See E.L.*, Docket No. 17-1632 (issued January 3, 2018).

¹³ *See K.A.*, Docket No. 16-0592 (issued October 26, 2016).

¹⁴ *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, 55 ECAB 674 (2004).

of her accepted bilateral carpal tunnel condition, the Board finds that she has not met her burden of proof in this case with regard to that claimed period.

The Board further finds that the evidence of record establishes that there was no work available within appellant's restrictions on October 26 and 27, 2017. OWCP received an October 27, 2017 request or notification of absence by the employing establishment, which noted that there was "no work available" from October 26 to 27, 2017. The employing establishment again confirmed during a telephone call with OWCP on November 9, 2017 that no work was available for appellant on October 26 and 27, 2017. Because the employing establishment has confirmed that it was unable to accommodate appellant's work restrictions, the Board must remand the case for OWCP to issue appropriate wage-loss compensation for the period October 26 to 27, 2017.¹⁵

For the remaining period October 28 to November 3, 2017, the Board finds the case not in posture for decision as the record lacks sufficient information to determine whether there was work available within appellant's restrictions. The evidence of record demonstrated that on November 3, 2017 appellant accepted an offer of employment to work as a full-time modified maintenance support clerk, effective November 1, 2017. In addition, on November 2, 2017 the employing establishment informed OWCP that appellant was scheduled to return to work full time with restrictions on November 12, 2017. The Board finds that it is unclear from the record whether the employing establishment was able to accommodate appellant's work restrictions for the period October 28 to November 3, 2017.¹⁶ Accordingly, the Board will remand the case for OWCP to make factual findings regarding whether there was work available within appellant's restrictions from October 28 through November 3, 2017. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a recurrence of total disability for the period July 27 to October 25, 2017, due to her accepted bilateral carpal tunnel condition. The Board further finds, however, that appellant has established entitlement to wage-loss compensation for the period October 26 to 27, 2017 and that the case is not in posture for decision regarding her entitlement to wage-loss compensation for the period October 28 to November 3, 2017.

¹⁵ See *D.V.*, Docket No. 17-1344 (issued March 19, 2018).

¹⁶ See *T.A.*, Docket No. 18-0431 (issued November 7, 2018); see also *T.M.*, Docket No. 17-1552 (issued July 10, 2018).

ORDER

IT IS HEREBY ORDERED THAT the March 1, 2018 decision of the Office of Workers' Compensation Programs is affirmed in part, as modified, and set aside in part. The case is remanded for further action consistent with this decision.

Issued: March 12, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board